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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,126	02/18/2004	Stephen F. Fromyer	D5433-138	3098
25397	7590	01/04/2005	EXAMINER	
DUANE, MORRIS, LLP 3200 SOUTHWEST FREEWAY Suite 3150 HOUSTON, TX 77027			NGUYEN, KIEN T	
			ART UNIT	PAPER NUMBER
			3714	

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/781,126	Applicant(s) FROMYER ET AL.	
	Examiner Kien T. Nguyen	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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Claim Rejections - 35 USC § 112

Claims 12-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Lines 19-20 of claim 12, and lines 24-25 of claim 21, "the rotator" lacks antecedent basis.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

BN Claims 1, 3-9, 11-18, 20-~~24~~²⁵ are rejected under 35 U.S.C. 102 (b) as being anticipated by Baxter et al U.S. Patent 5,623,878.

Baxter et al disclosed a dynamic ride vehicle comprising a frame (22); a pneumatic motion platform operatively connected to the frame having a base (12), a deck (56); a plurality of inflatable actuators (50, 52, 54) attached to at least one of the deck or the base at predetermined location intermediate the deck and the base, the actuators adapted for use as an active motive force with respect to the deck; a plurality of compliant stabilizers (72, 74) disposed intermediate the deck and the base, at least one portion of each stabilizer disposed proximate at least one of the actuators (see Fig. 6); a fluid controller (223) (see Fig. 21b) in fluid communication with the actuators; a source of hydraulic fluid in communication with the fluid controller; a cabin (20)

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operatively secured to the pneumatic motion platform and adapted to contain human being (see Fig. 3); a ride controller (40) operatively in communication with the fluid controller (applicant's claims 1, 12, 16, 21, 22-25). A manifold (60) adapted to connect the inflatable actuator to at least one of the deck or base (applicant's claim 3). The deck (56) is rectilinear; and one of the actuators (50, 52, 54) is disposed proximate each corner of the deck as shown in Figs. 6 and 7 (applicant's claim 4). The fluid controller inherently includes a fluid conduit, a valve (column 16, lines 41-44) disposed intermediate the conduit and one of the actuator, the valve adapted to operate at least one of hydraulic (applicant's claim 5). The stabilizer (72, 74) includes a compliant tie rod tensioner with a first end being attached to the base and a second end being attached to the deck, at least one of the ends being proximate one of the actuators (see Fig. 6), the stabilizer is adapted to take torque and shear loads, allowing the actuators to individually impart vertical motion with respect to the deck (applicant's claims 6, 7, and 20). A rotator (82) rotatably mounted to intermediate the deck wherein rotation of the rotator causes the deck to move independent of the base and providing yaw rotation of the cabin (see column 9, line 56) (applicant's claims 8, 9, 13, 18). The rotator is controlled by the controller (40) (applicant's claim 11). A motive system (86) attached to the frame adapted to move the vehicle along a predetermined path as shown in Fig. 18 (applicant's claim 14). The system (86) comprises an electrically powered pinch motor (see column 13, lines 20-24) (applicant's claim 15). The rotator (82) is adapted to provide continuous rotation in a counterclockwise direction relative to the plane (see Fig. 18) (applicant's claim 17).

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 10, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baxter et al ('878).

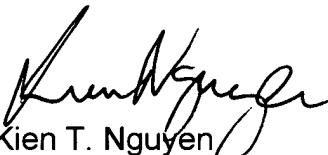
It is noted that Baxter et al failed to teach the use of air-spring actuators and caster as the rotator. However, such differences are merely mechanical expediciencies and they can be used interchangeably. Accordingly, it would have been a matter of design choice to substitute the hydraulic actuator with any equivalent air spring and the universal joint (82) with any equivalent caster for the reason as set forth above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kien T. Nguyen whose telephone number is (571) 272-4428. The examiner can normally be reached on 7:30 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (571) 272-4419. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kien T. Nguyen
Primary Examiner
Art Unit 3714

Ktn